

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAN VALLEJO, Individually and As
Personal Representative of Steve Vallejo;

Plaintiff,

vs.

AMGEN, INC., WYETH, INC., PFIZER,
INC.,

Defendants.

8:14CV50

ORDER

A conference call was held today to discuss first-phase (medical causation) discovery issues. The parties do not agree on what is encompassed within that phase. After hearing the plaintiff's arguments, the court agrees that ambiguity exists. Moreover, Plaintiff's counsel expressed concern that the court's intended case management plan is inconsistent with his extensive experience representing plaintiffs in complex litigation in other jurisdictions, including litigation against pharmaceutical companies.

To more fully inform the court on the parties' respective positions, and to avert any future misunderstanding regarding the scope and staging of discovery,

IT IS ORDERED:

1) On or before June 12, 2015, Plaintiff's counsel shall file a motion for clarification, along with a brief citing any relevant case law and treatises, explaining his position on the appropriate scope of discovery on the issue of general medical causation; that is, whether ingesting the prescription drug, Enbrel® (etanercept) can cause myelodysplastic syndrome ("MDS").¹

2) Defense counsel's response shall be filed on or before June 26, 2015.

¹ Plaintiff's complaint alleges Plaintiff died from complications of MDS. General medical causation, as described in this order, does not include specific medical causation; that is, whether this plaintiff's alleged injuries and death were caused by ingesting Enbrel® (etanercept).

- 3) No reply shall be filed absent leave of the court for good cause shown.
- 4) Counsel shall cite any relevant Eighth Circuit or Supreme Court case law on the case management issue presented, irrespective of whether they deem it “controlling” under the facts of this case.

May 29, 2015.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge